

## **7950. Definitions**

"Allowable costs" mean expenditures for eligible activities. See Section 7961.

"Capital Development Grant" means a grant of up to \$150,000 from the EHAF made to defray costs of capital development activities such as the acquisition, construction, conversion, expansion, reconstruction or rehabilitation of real property or the purchase of equipment for emergency shelter or transitional housing where the combined cost of these activities at a single site exceeds \$20,000. See section 7966.

"Client" is the person or household provided client housing or rental assistance funded by a program grant.

"Client housing" is the general term used in these regulations to describe emergency shelter, transitional housing, or vouchers provided to the client to meet emergency or transitional housing needs pursuant to this subchapter.

"Construction" means building a new structure, or expanding an existing structure, which will provide emergency shelter and/or transitional housing.

"Construction or service contractor" refers to the parties with whom a grantee contracts for construction services or equipment.

"Conversion" means the alteration of nonresidential space within an existing structure to create space for emergency shelter and/or transitional housing.

"Day" means calendar day.

"Department" means the California Department of Housing and Community Development.

"Director" means the Director of the Department of Housing and Community Development.

"DLB" is the acronym for "designated local board" which is a group, including social service providers and a representative of local government that has met Department requirements for distribution of grants allocated by the Department pursuant to chapter 11.5 of the Health and Safety Code. See section 7952.

"EHAF" is the acronym for the "Emergency Housing and Assistance Fund" established by section 50800.5 of the Health and Safety Code.

"EHAP" is the acronym for the "Emergency Housing and Assistance Program" established by Health and Safety Code section 50800.

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"Eligible activities" mean those activities upon which program funds may be expended. See section 7961.

"Eligible organization" means an agency of local government or a nonprofit corporation that provides, or contracts with community organizations to provide emergency shelter, or transitional housing, or both. See section 7959.

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person and that is not withheld due to a client's inability to pay.

"Grant" or "program grant" means a grant of monies from the Emergency Housing and Assistance Fund.

"Grantee" is the recipient of a grant, who enters into a Standard Agreement with the Department to provide specified eligible activities.

"Interested party or parties" means, for Department or DLB purposes, anyone who has informed the Department or the DLB, respectively, that they wish to receive information concerning the Department's or the DLB's EHAP activities and shall include any person who has spoken at a meeting of the Department or the DLB regarding EHAP or communicated in writing with the Department or the DLB concerning its EHAP activities during the prior year.

"LESS" is the acronym for "local emergency shelter strategy," a planning and evaluation document which is developed for a region by a DLB and which provides the basis for the selection of grantees and for monitoring subsequent grantee activities. See section 7955.

"Local organization" is the local group eligible to apply to the Department for designation as a DLB. See sections 7952 and 7953.

"Milestone" means a measurable objective toward the achievement of the project or program goals.

"NOFA" is the acronym for a "notice of funding availability" described in section 7958.

"Nonurban county" means any county with a population of less than 200,000, as published in the most recent edition of Population Estimates of California Cities and Counties, E-1, prepared by the Department of Finance, Population Research Unit.

"Operating Facility Grant" means a grant of up to \$50,000 in program funds made to defray costs of eligible activities including facility operations and administration, residential rental assistance, leasing or renting rooms for provision of temporary shelter, and up to \$20,000 per site in capital development-type activities, as described in Health and Safety Code section 50803 and in section 7963.

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"Program" means the Emergency Housing and Assistance Program (EHAP).

"Rank" means the order of eligible applications for funding based only on the rating established pursuant to the applicable grant selection criteria.

"Rating" means the process by which eligible applications are evaluated and given an overall numerical or relative value based on the numerical or relative value(s) assigned to each of the identified selection criteria described in the NOFA to which the applicant is responding.

"Reconstruction" means replacing an existing structure with a structure of similar size and type, which will be used to provide emergency shelter and/or transitional housing.

"Region" means a county or a consortium of counties voluntarily banding together by action of a designated local board.

"Rehabilitation" means making repairs or improvements to a building necessary to correct substandard conditions as defined by section 17920.3 of the Health and Safety Code. As used in these regulations, rehabilitation may include reconstruction or conversion.

"RTE" is the acronym for "responsible technical entity", an entity determined by the Department to have the expertise in housing construction and development necessary to make determinations about the feasibility of a proposed capital development project for which program funding is sought. See section 7954.

"Site" means a given parcel or contiguous parcel(s) of land, generally distinguished by a tax assessor's parcel number(s), developed or to be developed with emergency shelter and/or transitional housing.

"Transitional housing" means housing with supportive services that is limited to occupancy of up to 24 months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirements for subsidized housing for low-income persons.

"Urban county" means any county that is not a "nonurban county",

Authority: Sections 50402, 50801.5, and 50806.5 Health and Safety Code.

Reference: Sections 50800 through 50804.5, Health and Safety Code.

## **7951. Program Organization and Administration**

(a) Applications for program funds shall be solicited through NOFAs. The Department

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shall issue a Statewide NOFA and DLBs shall issue regional NOFAs as described in section 7958.

(b) The Department shall designate local boards, pursuant to the process described in section 7953, which shall solicit and review applications and select grantees from among eligible applications in their region.

(c) A DLB's activities shall be based upon the provisions of its LESS.

(d) The Department shall review applications and select grantees for those regions without DLBs.

(e) The activities of grantees shall be monitored pursuant to section 7975 to ensure compliance with the provisions of this subchapter and the standard agreement.

(f) Should a new federal homeless program be enacted by the federal government and be administered by the Department, for efficiency of operations the Department may administer EHAP to complement the new federal program.

Authority: Sections 50402, 50800(c), 50801.5, and 50806.5, Health and Safety Code.

Reference: Section 50802( c ), 50802.5, and 50804, Health and Safety Code.

#### **7952. Designated Local Board**

(a) A region shall have no more than one DLB at any time.

(b) The membership of the DLB shall be representative of the local community, as described in section 7953(d).

(c) Upon designation by the Department pursuant to section 7953 each DLB shall prepare or amend its LESS pursuant to sections 7955 and 7956 and approved by the Department pursuant to section 7956.

(d) A DLB shall be responsible for the selection of operating grant(s) within the region and shall monitor the subsequent performance of each grantee.

(e) A DLB shall be responsible for the selection of capital development grants only if the DLB has obtained from the Department a designation as an "RTE", pursuant to the requirements of section 7954.

(f) A DLB shall not initiate the local grant selection process until the Department has approved the DLB's LESS for the funding period.

(g) In the event of the termination of designation or the failure of the DLB to obtain approval of the LESS as required, the Department shall assure the continuation of

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EHAP funding to the region by issuing a separate regional NOFA and evaluating the subsequent applications pursuant to subsections 7967 (b) and (c).

(h) A DLB shall comply fully with the requirements of the California Public Records Act (Government Code sections 6250 through 6267) and the Bagley-Keene Open Meeting Act (Government Code sections 11120 through 11132).

(i) A DLB shall notify the Department of any change in its membership. Within thirty days of the announced resignation of a DLB member, the DLB shall select a replacement member who ensures that the DLB's membership continues to represent the local community .

(j) Pursuant to its evaluation of a DLB per section 7976, the Department may place conditions on a designation in order to correct any deficiencies in the performance of a DLB.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.  
Reference: Sections 50801(b), 50801.5(a) and 50804, Health and Safety Code.  
Section 11121.2, Government Code.

### **7953. Local Board Designation Process**

(a) In order to apply for designation as a DLB, a local organization shall submit to the Department a written application containing the information identified in subsection (b).

(b) The written application for designation shall include the following information:

- (1) The membership of the local organization;
- (2) The address of the local organization;
- (3) The proposed regional boundaries;
- (4) An explanation of each potential member's experience and expertise relevant to program activities;
- (5) The demonstrations and certifications required by section 7954, if applicable;
- (6) An explanation and supporting documentation of how the requirements of subsections (c) and (d) will be or have been met, including proof of publication of notice pursuant to subsection (c)(1); and
- (7) The certifications required by subsection (e).

(c) The local organization shall provide notice of the application for designation as a

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DLB to the public within the region and shall invite the public to submit comments to the Department about the application pursuant to all of the following:

- (1) Notice shall be provided through publication in at least one newspaper of general circulation in each county in the region.
  - (2) Notice shall be mailed to all interested parties.
  - (3) Notice shall be provided prior to submittal of the application.
  - (4) The notice shall provide the name, address, and telephone number of a person the public can contact for further information.
  - (5) The notice shall provide the public with thirty days within which to submit comments to the Department about the application.
  - (6) The thirty-day comment period shall begin the day after the notice is mailed or the day after the notice is published, whichever is later.
- (d) The membership of the local organization and of the subsequent DLB shall be representative of the local community, and shall:
- (1) Provide a range of community representation and expertise; and
  - (2) Represent such interests as shelter providers, local funding agencies, public officials, private industry, mental health groups, law enforcement, the courts, planning agencies, social services, and homeless advocates.
- (e) Within its application to the Department for designation, the proposed DLB shall certify in writing that it:
- (1) Accepts responsibility for the distribution and re-distribution of funds allocated to the region;
  - (2) Will monitor grantee performance;
  - (3) Will comply with all requirements of this subchapter;
  - (4) Will provide any data or information required by the Department for the evaluation of the performance of the DLB; and
  - (5) Will comply with and enforce the conflict of interest restrictions set forth in subsection (f).
- (f) No individual, including DLB staff and any DLB subcommittee member, participating in determining eligibility, feasibility, readiness, rating or ranking of grant applications shall

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be a board member, an officer, employee, or agent of any eligible organization applying for funds nor have any financial interest in any eligible organization applying for funds.

(g) Within fifteen days of the receipt of an application for designation, the Department shall notify the applicant in writing if the application is incomplete and identify the information and/or certifications that are missing.

(h) Within thirty days of the receipt of a complete application, the Department shall provide the applicant with written notice as to whether the local organization has received the Department's designation as a DLB. If an applicant has not received designation, the written notice shall provide each specific reason for not designating the local organization as a DLB.

(i) The Department shall withdraw the designation of a DLB if the activities of the DLB do not comply fully with the requirements of this subchapter.

(1) The Department shall provide the DLB with written notification of the withdrawal of designation and of the effective date of the withdrawal. The written notification shall identify each compliance issue upon which the withdrawal of designation is based.

(2) If a former DLB chooses to protest the Department's decision to withdraw designation and/or the findings upon which the decision was based, the DLB shall submit a written petition for a hearing to the Department, within fifteen days of the date of the Department's written notification.

(3) The petition shall request a hearing and shall provide a clear, concise statement of the reasons the hearing is being requested, the information and/or activities under discussion, and the remedy sought by the former DLB.

(4) Within fifteen days of the date the petition is received by the Department, the Department shall schedule a hearing and shall provide the petitioner with written notice of the date, time and place of the hearing. The date of the hearing shall be within forty-five days of the date of the Department's written notification of the withdrawal of designation and no sooner than ten days after the date of the hearing notice.

(5) The hearing shall provide the petitioner with the opportunity to be heard and to show cause why the withdrawal of designation should be modified or repealed.

(6) Within fifteen days of the hearing, the Department shall provide the petitioner with a written decision that repeals, modifies, or sustains the Department's decision to withdraw designation. The written decision shall respond specifically to each issue commented upon by the petitioner.

(j) A former DLB shall surrender custody of all program records, including applications,

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correspondence, and related documentation to the Department within seven days of the effective date of the Department's withdrawal of designation, or at the conclusion of the appeal process when it maintains the Department's decision to withdraw the designation.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Sections 50801(b) and 50801.5(a), Health and Safety Code.

#### **7954. Responsible Technical Entity**

(a) The following types of entities are eligible to demonstrate to the Department for designation as an RTE compliance with the requirements of subsections (d) through (g):

- (1) A DLB;
- (2) A local government entity;
- (3) A nonprofit corporation; and
- (4) A private, for-profit entity.

(b) In order to be designated as an RTE and be responsible for the selection of capital development grants, a DLB shall:

- (1) Demonstrate to the Department that the DLB membership meets the requirements of an RTE as set forth in subsections (d) through (g); or
- (2) Provide the certification required by subsection (h) that the DLB has delegated feasibility determinations involving capital development grants to an entity which has demonstrated to the Department that it meets the requirements of an RTE as set forth in subsections (a) and (d) through (g).

(c) The demonstration shall consist of written evidence of compliance with the requirements of subsections (a) and (d) through (g) and written certification by the proposed RTE of acceptance of these requirements.

(d) An RTE shall have direct experience with the development of emergency shelter and/or transitional housing projects in the region, whether new construction, conversion, or rehabilitation. Staff persons committed to the task shall cumulatively possess experience and expertise in construction, real estate, finance, and the development of housing projects.

(e) An RTE shall commit to assist the DLB with the selection of capital development projects for funding by determining the feasibility and readiness of the projects proposed in all eligible capital development grant applications.

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(f) For the purpose of reviewing, ranking, or selecting applications for funding, each member of the RTE or DLB subcommittee shall comply with subsection 7953(f).

(g) An RTE shall commit to provide the DLB with advice about project acquisition, construction and/or rehabilitation, during capital development grant monitoring and close-out activities.

(h) Where separate entities, the RTE and the DLB shall each certify in writing to a statement which delegates to the RTE the responsibilities stated in subsections (d) through (g).



(i) The demonstrations and certifications required by this section shall be provided with the local organization's application for designation as a DLB. The time frames for the Department's review shall be the same as those provided in subsections 7953(g) and (h).

(j) If a DLB enters into an agreement pursuant to subsection (h) with an entity other than the original RTE approved by the Department, the entity shall apply for Department approval pursuant to the requirements of this section. The new entity shall not participate in review and selection activities of the DLB until the Department provides written notice of approval of the entity as an RTE.

(k) In regions with no RTE, or where an RTE fails to complete its duties pursuant to this subchapter, the Department shall receive, review and select all applications for capital development grants.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Section 50802.5(c), Health and Safety Code.

### **7955. Local Emergency Shelter Strategy**

Each LESS shall include:

(a) An assessment of the needs within the region for client housing.

(b) A summary of the existing resources available within the region to meet the needs identified pursuant to subsection (a). To the extent practical, the summary shall identify each existing program by the type and amount of client housing provided, and the geographical area served.

(c) A statement of the regional goals for addressing the identified client housing needs not met by existing resources.

(d) A description of each local priority and restriction that will be placed on the distribution of program funds including:

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(1) The anticipated apportionment of the local county allocation between operating facility grants and capital development grants;

(2) Each category of client housing for which the local distribution of funds may have a priority or a restriction (for example, emergency shelter rather than transitional housing);

(3) Any other restrictions that may be placed on grant applications, such as a minimum or maximum grant level or a limit on the number of grants that will be funded.

(e) A description of the grant application process, including:

(1) The anticipated schedule for the solicitation, receipt, review and selection of applications;

- (2) The procedures for notifying potential applicants of the availability of funds and the eligibility requirements;
  - (3) The procedures that will apply to the submission of applications;
  - (4) A list of the anticipated documentation, in addition to that required by section 7960, that will be required for each application;
  - (5) A description of all technical assistance available to applicants;
  - (6) The procedures for determining applicant and application eligibility pursuant to the requirements of sections 7959, 7960, and 7961;
  - (7) The procedures for reviewing, rating, ranking and selecting eligible applications for grant awards;
  - (8) The process for awarding funds to eligible applicants in accordance with the requirements of section 7967;
  - (9) Where applicable, the process for DLB selection of capital development grants, including the process of RTE participation where the RTE is a different entity than the DLB, and including the provisions of sections 7966 and 7967;
  - (10) The procedures, including those required by section 7967, for providing applicants with notice of whether their respective applications were selected for funding;
  - (11) The anticipated process for the redistribution of any unawarded funds.
- (f) The procedures that will be employed to ensure that the activities of the DLB are

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conducted in an open, fair and competitive manner including procedures for:

- (1) Providing adequate public notice of the activities of the DLB, by, for example, publishing notices in newspapers of general circulation, posting notices in designated places, and mailing notices to interested parties who have requested such information; and
  - (2) Providing notice to all interested parties no less than ten days in advance of each scheduled meeting or hearing, in accordance with Government Code sections 11120 through 11132.
- (g) A description of the local process for applicants to appeal grant selection or other DLB activities, in a fair manner and in accordance with the requirements of section 7968 and including:
- (1) The timeframes for each step of the process, which cumulatively ensure the timely consideration of the petition and which do not exceed the timeframes set in subsection 7968(a);
  - (2) Who will make the initial determination on an appeal; and
  - (3) How an appellant can make a subsequent appeal to the Department for review of local determinations involving DLB procedures.
- (h) The procedures that will be followed by the DLB, and the RTE, if applicable, to monitor and evaluate the performance of grantees including:
- (1) Monitoring grantee progress in relationship to established milestones;
  - (2) Procedures for monitoring the execution and completion of grant contracts and scheduled draw-down of program funds;
  - (3) Procedures for the periodic review of grantee expenditures to ensure compliance with the requirements for the use of program funds;
  - (4) Periodic review of each grantee's record-keeping effort;
  - (5) Any local grantee reporting requirements.
- (i) The following attachments:
- (1) The mailing list of service providers that has been and will be used by the DLB to provide notice as required throughout this subchapter;
  - (2) A copy of the DLB's latest application for designation including the certifications required by subsection 7953(e);

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- (3) Copies of application forms and any other documents that the DLB will require for use or will use to determine eligibility, to evaluate applications and/or to select applications for funding;
- (4) A summary of the region's awards for the prior funding round(s), including who was funded, and for what amounts and activities.
- (5) A copy of the current written notice of designation issued to the DLB by the Department, pursuant to section 7953;
- (6) A copy of the most recent DLB evaluation performed by the Department pursuant to section 7976;
- (7) Agreements and conditions regarding the RTE, where applicable;
- (8) A summary of all public meetings held pursuant to section 7956(b), including copies of the notices published and mailed; and
- (9) A copy of all written comments submitted regarding the LESS and a summary of all oral comments received during the public meetings, and a summary of the DLB's responses to the public comments received.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Sections 50802.5, 50803.5 and 50804, Health and Safety Code.

#### **7956. Local Emergency Shelter Strategy Preparation, Review and Approval Process**

- (a) Each DLB shall submit two copies of its proposed LESS or LESS amendments to the Department for approval no later than the first day of September each year unless otherwise notified in writing by the Department.
- (b) Prior to submitting the LESS to the Department, the DLB shall conduct at least one noticed public meeting within each county within the region. During each meeting, the DLB members shall explain the contents of the proposed LESS and shall provide an opportunity for and shall receive public comments about the contents of the LESS.
- (c) The Department shall review each LESS to ensure that it includes all the information required pursuant to this section and section 7955, and that it demonstrates that the DLB process will be open, fair, and competitive.
- (d) Within thirty days of the receipt of a request to approve a LESS, the Department shall notify the DLB in writing if the request is incomplete, pursuant to the requirements of this section and section 7955, and identify the specific information that is missing or needs clarification.

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(e) Within twenty days of the date of the Department's notice, the DLB shall provide the requested information.

(f) Within 30 days after receipt of a complete LESS per section 7955, the Department shall provide the DLB with a written determination of the result of the Department's review of the LESS.

(1) The Department's determination shall be one of the following:

(A) Approved,

(B) Approved with conditions, or

(C) Disapproved.

(2) For a determination other than an approval pursuant to subsection (f)(1)(A), the Department's written notice shall explain each of the reasons for the determination.

(g) If a LESS is not approved, or is approved with conditions, the DLB may revise the LESS and resubmit it with a request for the Department's approval no later than fifteen days after the date of the Department's notice of non-approval.

(h) An amendment to an approved LESS may be prepared subject to the following requirements and procedures:

(1) The DLB's request for the Department's approval of a LESS amendment shall include a written statement providing the reasons why the LESS must be amended, and justification for the terms of the proposed amendment.

(2) Where policy or procedural changes are proposed, the DLB shall propose the amendment pursuant to the meeting requirements listed in subsection (b) and shall include in its request for approval the information listed in section 7955(i)(8) and (9).

(3) Within thirty days of the receipt of a complete amendment submittal, the Department shall provide the DLB with a written determination of whether the amendment is:

(A) Approved,

(B) Approved with conditions, or

(C) Disapproved.

(4) With the exception of a determination that approves an amendment as

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provided in subsection (h)(3)(A), the Department's written determination shall include a detailed explanation of the reasons for the determination.

(i) In any case where the LESS or any provision thereof conflicts with the program statute or regulations, the statute or regulations, respectively, prevail.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Section 50804, Health and Safety Code.

### **7957. Allocation and Distribution of Funds**

(a) The allocation to urban counties shall not exceed eighty percent of the funds available each fiscal year. Urban county allocations shall be based solely upon the following two factors:

(1) The ratio of: the number of persons in the urban county living below the poverty line to the total number of persons living below the poverty line in all urban counties of the State according to the most recent federal census, updated, if possible, with an estimate by the California Department of Finance; and

(2) The ratio of: the number of persons unemployed in the urban county to the total number of persons unemployed in all urban counties of the State based on the most recent one-year period for which data is available.

(b) Each allocation to an urban county shall be determined based upon the sum of the urban county's ratios as calculated per subsection (a).

(1) All urban counties shall be ranked in the order of the highest ratio sum to the lowest ratio sum, and urban counties with equal ratio sums shall be grouped.

(2) A minimum allocation of \$10,000 shall be made available to each urban county within the group with the lowest ratio sum.

(3) Each ratio sum, other than the lowest sum, shall be converted to a percentage, with the sum of the percentages equaling 100%.

(4) Following the deduction of the minimum allocations from the funds available, the balance of the funds shall be divided into groups in proportion to the percentages determined by the calculation required by subsection (b )(3).

(5) The amount of funds available to each group shall be allocated in equal proportions to each of the urban counties within the group.

(c) The allocation to nonurban counties shall not be less than twenty percent of the funds available each fiscal year. Nonurban regional allocations shall be based solely upon

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the following two factors:

- (1) The ratio of: the number of persons in the non urban county living below the poverty line to the total number of persons living below the poverty line in all nonurban counties of the State according to the most recent federal census, updated, if possible, with an estimate by the California Department of Finance; and
  - (2) The ratio of: the number of persons unemployed in the nonurban county to the total number of persons unemployed in all nonurban counties of the State, based on the most recent one-year period for which data is available.
- (d) Each allocation to a nonurban county shall be determined based upon the sum of the nonurban county's ratios for persons living below the poverty line and for persons unemployed as calculated per subsection (c).
- (1) All nonurban counties shall be ranked in the order of the highest ratio sum to the lowest ratio sum, and nonurban counties with equal ratio sums shall be grouped.
  - (2) A minimum allocation of \$10,000 shall be made available to each nonurban county within the group with the lowest ratio sum.
  - (3) Each ratio sum, other than the lowest sum, shall be converted to a percentage, with the sum of the percentages equaling 100%.
  - (4) Following the deduction of the minimum allocations from the funds available, the balance of the funds shall be divided into groups in proportion to the percentages determined by the calculation required by subsection (d)(3).
  - (5) The amount of funds available to each group shall be allocated in equal proportions to each of the nonurban counties within the group.
- (e) If two or more counties form a consortium under a DLB, the total allocation for that subsequent region shall be the sum of the individual county allocations available as described in the Statewide NOFA. Each county shall receive its respective share of the allocation in client housing and/or rental assistance.
- (f) The Department may designate, the eligible use(s) for which a specified allocation of funds is restricted when:
- (1) The original source of the funds allocated to the Department restricts the use of those funds (e.g., bond funds for capital development); or
  - (2) The Department identifies a particular Statewide need among eligible activities and facilities for funding; or
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- (3) The total allocation to the Department for program use is less than the amount needed to fund the minimum allocation of \$10,000 per county.

(g) The Department shall provide a written explanation of the necessity for designating the eligible use of a specific allocation. This explanation shall appear in the NOFA issued by the Department for the specific allocation, pursuant to section 7958.

(h) The allocation term is two years, beginning the date the Department issues the Statewide NOFA for the specific allocation.

(i) At the end of the two-year allocation term, any allocation balance not encumbered shall be returned to the Emergency Housing and Assistance Fund for allocation as part of the next Statewide NOFA.

(j) For any county without a DLB, when there are no applicants, the allocation balance will revert to the EHAF and be allocated as part of the next Statewide NOFA.

(k) The minimum grant is \$10,000 except as follows:

(1) For counties with an allocation greater than \$20,000, one grant less than \$10,000 may be awarded if necessary to fully utilize the county's allocation.

(2) For counties with an allocation of up to \$20,000, up to two grants of less than \$10,000 may be awarded.

(l) The maximum grant amounts are as stated in sections 7963 and 7966, or, for regions with a DLB, such lesser amounts as a DLB has established in its approved LESS.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Sections 50802 and 50802.5( a ), Health and Safety Code.

### **7958. Notices of Funding Availability**

(a) A Statewide or regional NOFA is the document issued by the Department or the DLB, respectively, which notifies all interested persons,

(1) That the program has been allocated funds;

(2) The types and amounts of funds available for specified eligible activities;

(3) That the funds will be distributed to eligible applicants through a competitive process;

(4) The specified minimum and maximum grant amount(s) consistent with this subchapter, and, for regional NOFAs, with the LESS;

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(5) The specified timeframes, which apply to the application and grant selection processes, including the deadline for filing of applications;



(6) That copies of EHAP's governing statutes and regulations can be obtained from a contact whose name, address and telephone number are provided; and

(b) In addition to the items listed in subsection (a), a Statewide NOFA shall include;

(1) A list of the allocations available to each county;

(2) Identification of the counties for which the Department shall receive and review eligible applications, select applications for grant awards, and fully monitor the performance of grantees;

(3) The name, address and telephone number of a contact person within the Department, who can provide further information and the application package for counties the Department, will serve;

(4) Identification of the regions and corresponding counties for which DLBs shall receive and review eligible applications, select applications for grant awards, and monitor the subsequent performance of grantees; and

(5) The name, address and telephone number of a contact person within each DLB, who can provide further information and an application package.

(6) The grant selection criteria described in subsection 7967(b).

(c) In addition to the items listed in subsection (a), a regional NOFA shall include:

(1) The amount of the regional allocation;

(2) Any restrictions imposed upon the use of the funds by the terms of the Statewide NOFA;

(3) Any priorities or restrictions imposed upon the use of the funds pursuant to the approved LESS;

(4) The name, address and phone number of a contact person, who can provide a copy of the LESS and the regional application;

(5) The grant selection criteria described in section 7967(c).

(d) A regional NOFA shall be provided by a DLB to all providers of client housing and/or client services, within its region, including the providers on the list attached to the

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LESS, pursuant to subsection 7955(i)(1).

Authority: Sections 50401, 50801.5(a), and 50806.5, Health and Safety Code.

Reference: Section 50802.5, Health and Safety Code.

### **7959. Eligibility Requirements for Applicants and Grantees**

(a) An agency of local government or a nonprofit corporation, which provides or contracts with community organizations to provide emergency shelter or transitional housing, or both, is eligible to apply for program funds, if the application demonstrates compliance with the eligibility requirements of this section.

(b) A grantee shall maintain continuous compliance with the requirements of this subchapter.

(c) As of the publication date of the Statewide NOFA, an applicant or a grantee shall have provided client housing continuously each day throughout the prior twelve months or, for cold-weather shelter providers, each day throughout the region's prior cold-weather season.

(d) An applicant or a grantee shall not require, as a condition of client housing, participation by clients in any religious or philosophical ritual, service, meeting, or rite.

(e) An applicant or a grantee shall not provide client housing in a manner which denies benefits on the basis of race, religion, age, sex, marital status, ethnicity, place of origin, physical or mental disability, or any other arbitrary basis. This section shall not be construed to preclude the provision of client housing designed to accommodate women or men only.

(f) An applicant or a grantee shall not provide client housing or rental assistance in a structure which contains any of the conditions of a substandard building listed in section 17920.3 of the Health and Safety Code and shall comply with all applicable State and local construction, maintenance and occupancy standards.

(g) An applicant or a grantee which provides emergency shelter and related client services shall provide access to the shelter and services, on a first-come, first-served basis, for whatever time periods are established by the grantee.

(h) An applicant or a grantee providing emergency shelter to clients shall not:

(1) Condition the provision of emergency shelter on the receipt of public or private payment vouchers or cash payment from the client;

(2) Reserve space in the emergency shelter for any person(s) except as allowed by statute and described in subsection (i); or

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(3) Deny shelter or services to any client due to the inability to pay.

(i) Notwithstanding the provisions of subsections (g) and (h), a grantee may accept payment vouchers provided through any other public or private program for clients in emergency shelters so long as no shelter beds are reserved beyond sundown for that purpose.

(j) An applicant or a grantee providing emergency shelter shall establish rules for client occupancy which shall:

- (1) Include a statement of the maximum consecutive number of days during which a client is eligible to occupy the shelter;
- (2) Be conspicuously posted at the emergency shelter.

(k) An applicant or a grantee providing transitional housing may charge rent only if a minimum of ten percent of all monies collected for each client are reserved to assist that client in moving to permanent housing. In addition:

- (1) The reserve of monies for each client must be accounted for separately; and,
- (2) If monies reserved for a client remain unused due to the absence of the client for a year or more, the monies shall be used to assist another client in moving to permanent housing.

(1) An applicant or grantee providing transitional housing shall demonstrate that the housing meets all of the following tests:

- (1) Occupancy is limited to a maximum of two years; and,
- (2) Every client is offered at least three types of self-sufficiency development services such as job counseling or instruction, personal budgeting or home economics instruction, tenant skills instruction, landlord/tenant law, victim's rights counseling, or apartment search skills instruction; and,
- (3) Any client must participate in at least one self-sufficiency development service offered by the client housing provider as a condition for receiving client housing; and,
- (4) Every client accumulates funds to be applied to first and last months' rent for permanent housing pursuant to subsection 7959(k); and,
- (5) Every client is provided referrals or placements to permanent housing.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Sections 50801(e) and (h) and 50801.5, Health and Safety Code.

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### **7960. Eligible Application**

(a) In order to be eligible for selection, an application shall:

- (1) Be submitted by the deadline stated in the applicable NOFA;
- (2) Be submitted to the address noted in the applicable NOFA;

(3) Be complete, pursuant to subsection (b); and

(4) Contain a certification by the applicant that all information within the application is a true and accurate representation of the eligible organization.

(b) A complete application shall consist of the following:

(1) An authorizing resolution by the applicant's governing board of directors;

(2) A fully completed application accompanied by all applicable attachments and any additional information requested in the respective NOFA; and

(3) Any other information the DLB or the Department requires to determine the eligibility of the applicant and the proposed activities, to evaluate or rate and rank the application, or to confirm that the applicant is capable of successfully completing all activities.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Section 50801.5(a), 50802.5(b ), Health and Safety Code.

#### **7961. Eligible Use of Funds**

The use of grants of program funds shall be restricted to the following eligible activities and allowable costs.

(a) Eligible activities for which grant funds may be used to defray the costs of providing direct client housing include:

(1) Operating facilities to provide emergency shelter or transitional housing;

(2) Acquiring, constructing, converting, expanding, or rehabilitating emergency shelter or transitional housing sites pursuant to section 7966;

(3) Leasing facilities for emergency shelter or transitional housing;

(4) Administrative costs up to five percent of the total grant amount;

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(5) Supervising and counseling clients;

(6) Residential rental assistance;

(7) Housing vouchers;

(8) Purchase of equipment; and

(9) Subcontracting with other eligible organizations to provide vouchers for temporary shelter and/or to provide residential rental assistance.

(b) Allowable costs within operating facility grants include, but are not limited to, costs of:

(1) Supervisory and line staff who provide services directly to clients;

(2) Counseling clients and supervising the counseling services;

(3) Utilities, telephone, office supplies, document duplication, printing and mailing;

(4) Routine maintenance and repair ( such as interior painting and cleaning; repairs to heating, ventilating, air- conditioning, plumbing, and electrical systems; repair of tenant damages; and other items not constituting a capital expenditure );

(5) Debt reduction, limited to no more than the one year's principle and interest on fully-amortized installment loans, excluding any balloon payments;

(6) Rent or lease payments for a shelter or transitional housing facility;

(7) Insurance and taxes;

(8) Administration (administrative staff and overhead costs up to five percent of the grant amount);

(9) Costs of paying rents in arrears and costs of paying initial rents for residential rental assistance in compliance with section 7964;

(10) Issuing vouchers for the purpose of leasing or renting individual units, hotel rooms, or motel rooms for use as emergency shelter, pursuant to subsection

(a)(7), section 7965 and subject to the limitations of Health and Safety Code section 50803(b) (i.e., no more than 15% of an urban county's allocation).

(11) Up to \$20,000 per site for costs of capital development-type activities and equipment such as described in subsection (c).

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(c) Allowable costs within capital development grants include, but are not limited to costs of:

(1) Site acquisition, such as purchasing land and improvements, purchasing and moving an existing structure to the site, purchasing and moving a modular or manufactured structure to the site, necessary architectural and engineering services, and escrow, title and other standard closing costs;

(2) Site construction, rehabilitation or conversion, such as materials, labor, local government fees, and architectural and engineering services;

(3) Equipment required in the provision of client housing.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Sections 50801.5 and 50803, Health and Safety Code.

#### **7962. Ineligible Use or Funds**

The grant of program funds shall not be used for costs associated with activities in violation of any law nor for the following:

- (a) The purchase of radios, televisions, and other appliances or equipment for recreational purposes;
- (b) Occupancy fees for clients in emergency shelters;
- (c) Off-site costs, special requirements, assessments, or anything more than is directly necessary for the development of emergency shelter or transitional housing;
- (d) On-site improvements beyond those directly necessary for the development of emergency shelter or transitional housing (such as walls, fencing, parking lots, and landscaping);
- (e) To provide temporary housing for minor children separated from their families due to a court order or an administrative order;
- (f) To provide activities which do not directly provide client housing such as drop-in or day centers, food and food services, general relief, medical care, and transportation or child care (except as required by clients to participate in the self-sufficiency development services, or seek employment or permanent housing).
- (g) Staff, other than the allowable administrative costs, not directly related to the provision of client housing such as security guards, food handlers, and landscape personnel.

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(h) To provide activities detennined by the Department or a DLB to be an ineligible, inefficient or ineffective use of grant funds as stated in the applicable NOFA

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Section 50803, Health and Safety Code.

#### **7963. Operating Facility Grants**

(a) An operating facility grant includes any single eligible activity or combination of eligible grant activities described in section 7961(a) including combined capital development-type activities of up to \$20,000 per site.

(b) Allowable costs for an operating facility grant are those identified in subsection 7961(b ), and limited to expenditures approved for eligible activities completed within the term of the Standard Agreement.

(c) The maximum operating facility grant shall be \$50,000 per site

(d) The term of an operating facility grant is 14 months from the effective date of the contract, and no extensions will be given.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Section 50803, Health and Safety Code.

#### **7964. Residential Rental Assistance**

The following requirements apply to the use of program funds under an operating grant to provide residential rental assistance to clients.

(a) The payment of rent in arrears shall not exceed one month's rent plus a reasonable late charge. Program funds shall be used only if:

- (1) The client is unable to pay the rent in arrears and is threatened with eviction;
- (2) No other resources or assistance are available to pay the rent in arrears; and
- (3) The client has not received more than one EHAP payment of rent arrears in the immediate past two years.

(b) The payment of initial rent shall consist of no more than the first month's rent or the last month's rent, or both if required as a condition of the occupancy of permanent housing. Program funds shall be used only if:

- (1) No other resources or assistance are available to pay the initial rent; and

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- (2) The client has not received more than one EHAP payment of initial rent in the immediate past two years.

(c) Grant funds to be used for residential rental assistance shall be accounted for separately.

(d) Interest earned on the grant funds set aside for rental assistance shall be continuously credited to the rental assistance account.

(e) Prior to providing residential rental assistance, the grantee shall verify that:

- (1) The client is eligible to participate in the program and has income sufficient to pay the monthly rent; and
  - (2) An appropriately sized and priced rental unit is available and suitable for occupancy by the client.
- (f) The client shall not have direct use of grant funds. Grant funds shall be distributed directly from the grantee to the landlord.
- (g) A grantee providing residential rental assistance shall:
- (1) Make determinations regarding the eligibility of clients based upon a written application from the client;
  - (2) Provide information to clients on the tenant-landlord relationship, on the appropriate treatment of rental property, on appropriate behavior within the neighborhood, and on the importance of timely rental payments; and
  - (3) Provide staff that shall be reasonably available to landlords and tenants to answer questions or complaints about the program.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Section 50803, Health and Safety Code.

#### **7965. Leasing or Renting Rooms with Vouchers**

The following requirements apply to the use of program funds to provide vouchers to lease or rent temporary housing for clients:

- (a) Eligible temporary housing includes apartments, motel rooms, hotel rooms, rental rooms in a single-room occupancy structure, single-family homes, and manufactured homes or mobile homes.
- (b) Vouchers for temporary housing may also be use to pay rental fees for spaces at a

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special occupancy park which is defined by section 18216.1 of the Health and Safety Code as a recreational vehicle park, temporary recreational vehicle park, incidental camping area, or tent camp.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Sections 18216.1 and 50803, Health and Safety Code.

#### **7966. Capital Development Grants**



- (a) A capital development grant includes any single eligible activity or combination of eligible activities described in section 7961(a)(2) and (8), for which these combined costs at a single site exceed \$20,000.
- (b) Allowable costs for a capital development grant are those identified in subsection 7961(c), and limited to expenditures for approved eligible activities completed within the term of the standard agreement.
- (c) The maximum capital development grant shall be \$150,000 per site.
- (d) The term of a capital development grant is 24 months from the effective date of the contract, with the possibility of a one-year extension pursuant to section 7970(c)(2).
- (e) Applications for capital development grants must be made separately from applications for operating facilities grants.
- (f) For regions where the DLB is authorized to select capital development grant applications, such applications shall be submitted to the DLB for selection pursuant to this subchapter and the approved LESS.
- (g) For regions where there is no DLB, or the DLB is not authorized to select capital development grants, capital development grant applications shall be submitted to the Department for determination of eligibility, rating and ranking. These applications shall provide the information necessary for the Department's evaluation pursuant to subsections (i) and 7967(b).
- (h) For regions where the DLB is not authorized to select capital development grants, the DLB may elect to preclude applications for capital development grants, provided this determination and the treatment of any capital development grant allocation is identified in the LESS.
- (i) A capital development project shall be deemed feasible, where an evaluation by the RTE, as applicable, demonstrates and certifies to all of the following:

- (1) The legal status, finances and projected cash-flow, technical feasibility, and the accuracy of the project's schedule demonstrate the probability of a successful

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completion of the project;

- (2) The project's design and materials and the proposed labor needs and costs demonstrate that the project is devoid of non-essential or luxury design or materials;

- (3) The current ownership and potential ownership of the real property demonstrate that control of the real property is sufficient to enable the project to be completed and to be operated for at least five years beyond completion, without jeopardizing the Department's security;

(4) The proposed schedule corresponds with the scope of the project and demonstrates that the project shall be completed within the term of the grant.

(5) The management team proposed for the project has the experience and ability to efficiently and successfully complete the project as proposed.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Sections 50802.5, 50803, and 50804.5, Health and Safety Code.

### **7967. Grant Selection Process**

(a) A grant selection process shall involve eligible applications received by a DLB or the Department in response to the applicable NOFA.

(b) Each of the following selection criteria shall be specified in the Statewide NOFA:

(1) The applicant's capability of achieving the activities and results proposed in the application. An applicant's capability will be evaluated based on such items as its history of providing client housing; organizational structure and staffing; experience of establishing, administering, and successfully completing homeless programs; experience of public and private fundraising and resource development; established financial management systems; financial stability and solvency; and demonstrated ability and readiness for accomplishing its proposed activities.

(2) The impact and effectiveness of the client housing provided and proposed to be provided by the applicant. Impact and effectiveness will be evaluated based on such items as the range and quality of client housing provided, including the self-sufficiency development services provided with transitional housing; how the proposed activity(ies) address community needs; and the demonstrated effectiveness of the applicants' current and proposed programs to move homeless persons into a self-supporting environment.

(3) The cost-efficiency of the proposed use of grant funds for providing client housing. Cost efficiency will be evaluated based on such items as the type and

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amount of client housing provided compared to the project budget; the demonstrated availability of other financial resources besides EHAP to support achievement of the proposed activity(ies); the need for EHAP funds; leveraging of EHAP with other funds; non-duplication of services; and coordination with other organizations.

(c) Each of the following selection criteria shall be specified in the regional NOFA:

(1) The applicant's capability of achieving the activities and results proposed in the application;

(2) The impact and effectiveness of the client housing provided and to be provided by the applicant;

(3) The cost-efficiency of the proposed use of grant funds for providing client housing;

(4) The extent to which the local needs, goals and priorities identified in the LESS are met and achieved, respectively, by the applicant's proposed activities; and

(5) Any additional criteria as identified in the LESS approved by the Department pursuant to section 7956.

(d) The Department or DLB, respectively, shall provide in the NOFA the subcriteria and the point system to be used for selecting grantees for awards from that allocation.

(e) Applications shall be individually rated and then ranked in descending order. Funds will be awarded to eligible applicants in each region in descending rank order for the amount requested in the corresponding eligible application, until the remaining funds are insufficient to fully fund the next highest ranked application(s). Then,

(1) The next highest rated and ranked unfunded application following the full funding of the highest rated and ranked applications shall be partially funded if the funded activities can be adequately completed with the EHAP funds awarded.

(2) In the event of a tie for applicants in the lowest-ranked position to be funded, the Department or DLB, as applicable, will review the tied applications again and break the tie before continuing the award process.

(f) Each application submitted to a DLB for a capital development grant shall be evaluated by an RTE, which shall:

(1) Determine whether the application is feasible, pursuant to a competent, comprehensive evaluation pursuant to the standards provided in subsection 7966(i); and

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(2) Provide a written and certified summary of its evaluation and determination, and append this to the application.

(g) A DLB shall make the final rating and ranking of eligible applications in sufficient time to allow for appeals prior to the date the DLB transmits the subsequent initial grant selections to the Department for confirmation.

(h) A DLB shall transmit the initial grant selections to the Department for confirmation no later than 150 days after the date the LESSes are due for the annual allocations from which the selections were made. Up to a 30-day extension of the deadline may be granted by the Department upon written request by the DLB for circumstances beyond DLB control.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Section 50802.5, Health and Safety Code.

## **7968. Appeal Process**

(a) Any applicant shall be entitled to appeal the grant selection activities or other activities of the DLB for the region it serves and to which it applied, by submitting a written petition for a hearing to the DLB within seven days following the date the DLB makes the final rating and ranking of eligible applications available to the public.

(1) The written petition shall:

(A) Provide the name, address and telephone number of the petitioner;

(B) Clearly describe each activity disputed;

(C) Clearly explain why the activity is disputed; and

(D) State the remedy the petitioner is seeking.

(2) Upon receipt of the complete petition, the DLB shall set a time and place for a hearing and shall provide the petitioner with written notice of the scheduled hearing. The hearing shall be scheduled for a date no more than fifteen days following the date of the petition.

(3) The hearing shall provide the petitioner with the opportunity to be heard and to show cause why the DLB's grant selection or other activity is disputed and why the remedy sought is appropriate.

(4) Within seven days following the hearing, the DLB shall provide the petitioner with a written determination of the appeal.

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(b) A petitioner who has received a negative determination from a DLB shall be entitled to appeal to the Department for a review of the determination if the appeal is regarding the DLB's failure to follow the procedures established in the LESS or for violating the program regulations or statute. The petitioner's written petition must be received for review by the Department, within ten days after the petitioner's receipt of the DLB's determination of its appeal, or upon failure of the DLB to follow the appeal procedures contained in the LESS. .

(1) The written petition shall:

(A) Include the information listed in subsection (a)(1);

(B) Clearly explain why the activity continues to be disputed; and

(C) Include copies of the original petition to the DLB, the determination issued by the DLB, and all documentation the petitioner possesses that is relevant to the appeal.

(2) Upon receipt of the petition, the Department shall determine whether the petition challenges the judgment or the procedures of the DLB.

(A) If the Department determines that the petition challenges the judgment of the DLB, or challenges the procedures established in the approved LESS approved by the Department, the Department shall deny the petition.

(B) If the Department determines that the challenge in the petition is that the procedures used by the DLB were not established in the LESS approved by the Department, the Department shall review the records and the petition and shall issue a written determination within 21 days of the receipt of the appeal petition.

(C) If the Department determines that the procedures established in the LESS approved by the Department were not followed, the Department shall issue a written determination to that effect and shall initiate corrective action.

(3) Corrective action shall include, as appropriate, imposing restrictions on the activities of the DLB or requiring the DLB to repeat the grant selection process and/or revoking the designation of the local board.

(c) Any applicant from a region without a DLB shall be entitled to appeal the grant selection activities of the Department by submitting a written petition to the Department. The petition must be received within ten days following the date the Department makes the final rating and ranking of eligible applications available to the public.

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(1) The written petition shall include the information listed in subsection (a)(I),

(2) Within 21 days of receipt of the petition, the Department shall respond in writing to the petition and make a determination based on the information available.

(3) Each determination shall clearly state the findings upon which the Department's determination is based, and identify any corrective action to be taken.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Sections 50801.5, 50802.5, and 50803.5, Health and Safety Code.

#### **7969. Confirmation Process for Initial Grant Selections of a Designated Local Board**

(a) All grant selections made by DLBs shall be subject to confirmation by the Director.

(b) The transmittal of initial grant selections by a DLB to the Department shall include all of the following:

(1) An overview of the DLB actions taken on all applications,

(A) Organized into three groups: those applications deemed ineligible, those deemed eligible and selected for funding, and those deemed eligible but not selected for funding; and

(B) Identifying each application by applicant name, grant type, grant amount requested, eligibility, the rate and rank achieved by each eligible application during the selection process, and the DLB's initial funding determination; and

(C) Providing, for each application deemed ineligible, an explanation of the basis for that determination; or

(D) Providing, for each application deemed eligible a summary of the score achieved on each criterion, and the proposed grant amount.

(2) A certification by the DLB that it complied with the LESS as approved by the Department;

(3) For each application for a capital development grant, certified copies of the evaluations and determination of the RTE as required by subsection 7966(h), including copies of all supporting documentation upon which the evaluations and determination are based;

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(4) For all applications recommended for funding, certification that the DLB reviewed and identified no irregularities with,

(A) The eligibility of the applicants, applications, and activities recommended for funding;

(B) The applicant's fiscal records for the prior fiscal year;

(C) The proposed client housing and/or client services and intake procedures;

(D) The availability of the additional operating funds necessary to provide the proposed client housing; and

(E) Conformance with regulations.

(c) If the transmittal is incomplete, the Department shall notify the DLB in writing within 20 days and shall include specific requests for additional documentation.

(d) If the transmittal is complete but a portion of one or more of the selected applications is found to be ineligible (such as an ineligible activity), the Department shall notify the DLB and

may adjust the application to eliminate the problem if this adjustment does not affect the DLB's overall funding recommendations.

(e) Within 45 days of the receipt of a complete transmittal of initial grant selections from a DLB, the Department shall provide written notification to the DLB and to each applicant selected by the DLB of one of the following determinations:

- (1) The selection by the **DLB** is confirmed; or
- (2) The DLB's applicant selection is confirmed with specified conditions; or
- (3) The DLB's applicant selection is not confirmed.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Section 50802.5, Health and Safety Code.

#### **7970. Grantee Contract Requirements**

(a) Following a grant award by the Director, the Department shall contract directly with the grantee. The contract shall be known as the "standard agreement" and shall include the items specified in this section.

(b) The following information shall appear in each standard agreement:

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- (1) A clear and accurate identification of the grantee and the Department;
- (2) The timeframe for the performance of the approved project activities;
- (3) The amount of the grant, clearly expressed as the maximum amount, and the basis upon which payment is to be made; and
- (4) A clear and complete statement of the activities and services the grantee will perform and provide.

(c) Timeframes for the performance of approved project activities shall be as follows:

- (1) Approved project activities for operating facility grants shall commence within two months of the effective date of the standard agreement and shall be completed within fourteen months of the effective date of the standard agreement. No extension of this contract term shall be granted.
- (2) Approved project activities for a capital development grant shall commence within six months of the effective date of the standard agreement and shall be completed within two years of the effective date of the standard agreement.

(A) The commencement of project activities for a capital development grant shall mean either closing escrow on the purchase of a facility or acquiring a building permit for construction, conversion or rehabilitation.

(B) The completion of project activities for a capital development grant shall mean acquiring a certificate of occupancy, where applicable

(C) If requested by the grantee, the Department may approve an extension to a standard agreement for a capital development grant not to exceed twelve months, if the Department finds that such an extension is essential for the successful completion of approved project activities.

(d) Each standard agreement shall provide that a grantee shall request and receive grant payments only under conditions which protect the Department's interests.

(e) The following performance requirements shall appear in each standard agreement and shall include additional provisions specific to each grantee:

(1) That the grantee shall submit to the Department and the DLB, as applicable, reports on the progress toward the completion of approved activities during the term of the standard agreement;

(2) That the grantee shall maintain accounting books and records in accordance with generally accepted accounting standards;

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(3) That the capital development grantee shall provide the Department with a security interest in any real or personal property acquired or improved with program funds. The security interest shall be sufficient to secure the continued compliance by the grantee with specified terms of the standard agreement.

(f) The standard agreement may require monitoring utilizing a work plan prepared by the grantee as part of its application and incorporated by reference as part of the standard agreement.

Authority: Section 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Section 50802.5(e), Health and Safety Code.

#### **7971. Procedures and Requirements for Procuring Contracts for Services or Materials Under a Capital Development Grant**

(a) Each grantee awarded a capital development grant shall ensure that the requirements of this section are complied with

(1) In all its contracts or subcontracts for services and materials to be paid for with grant proceeds; and



(2) By all its contractors and/or subcontractors providing or contracting for services and/or materials to be paid for with grant proceeds.

(b) Prior to the disbursement of grant funds for any contract for services or materials required for eligible activities under a capital development grant, all construction or service contractors or subcontractors shall provide evidence satisfactory to the Department, of compliance with the requirements of this section.

(1) The grantee shall provide to the Department copies of the proposals from consultants and/or contractors for the Department's review and approval.

(2) The Department's review and approval shall be based on the proposed budget, the applicant's experience, the price of the services, and related factors, and shall be completed within 15 days of receipt of complete information from the grantee.

(c) No contract or subcontract using EHAP funds in excess of \$25,000 shall be awarded without the prior review of the Department and without written approval from the Department. The Department shall not unreasonably withhold approval of said contracts.

(d) Each grantee entering into contracts for construction or rehabilitation services or materials shall have:

(1) Written bidding procedures and shall have invited bids from as many

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prospective bidders as is practical;

(2) Awarded the contract to the lowest responsible bidder or shall have rejected all bids;

(3) Established a method of monitoring the contract; and

(4) Maintained and make available to the Department detailed records and accounts of contracts for services and or the purchase of materials.

(e) Each contract for construction or rehabilitation services or materials shall comply with all applicable program requirements and all applicable terms and provisions of the standard agreement.

(f) Each contract shall include a provision stating that the records of the contracting parties shall be subject to audit by the Department for a period of five years after the termination of the Standard Agreement.

(g) Each contract shall include a provision stating the method and schedule of payments and shall provide for the retention of an amount of not less than ten percent from each progress payment, until such time as the lien-free completion of the project is ensured.

(h) Each construction or rehabilitation contract of \$25,000 or more shall include a security provision requiring the contractor to provide a performance and payment bond or an alternate, yet equivalent, form of security, such as a letter of credit.

(1) Any form of security, required of such a contractor and/or a subcontractor, other than a performance and payment bond, is subject to the prior review and approval of the Department.

(2) The security shall be in an amount equal to one-hundred percent of the amount of the successful bid.

(i) Each construction or service contractor or subcontractor shall be appropriately licensed by the California State Contractors Licensing Board and shall be insured as required by State law.

(j) The grantee shall establish procedures which ensure that disbursements are properly expended by, or on behalf of, the grantee. Such procedures shall include:

(1) Performing on-site inspections of the construction or rehabilitation work; and

(2) Using progress inspection reports as the basis for issuing payments to contractors or subcontractors.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

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Reference: Section 50802.5, Health and Safety Code.

#### **7972. Requirements for Construction, Conversion or Rehabilitation Performed by the Grantee**

(a) A grantee, which chooses to perform all or part of the labor and/or to provide all or part of the materials necessary to construct or rehabilitate the approved project, shall comply with the requirements of this section.

(b) Grant proceeds shall not be used to pay any family member of any person on the board of directors or staff of the grantee.

(c) The grantee shall enter into a written contract with each subcontractor, pursuant to the requirements of section 7971.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Sections 50802.5 and 50803, Health and Safety Code.

#### **7973. Budget Changes**

(a) After the award is made, the Department may approve changes to a project budget provided the requested budget change complies with either subsection (b) or (c).

(b) The proposed budget change:

(1) Does not substantially change the specific clients served by the approved project activities; and

(2) Continues to meet the priorities and criteria imposed during the respective grant selection process; and

(3) Results in a product, substantially the same as the originally-approved product, that costs the same as or less than the originally proposed product; and

(4) Will be completed by substantially the same date as allowed for the originally proposed product.

(5) In competitive regions, does not affect the list of awarded applications in a manner which would cause any application to be added to or removed from the list.

(c) The proposed budget change will result in a significant increase in benefits to the local program.

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Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Sections 50802.5 and 50804.5, Health and Safety Code.

#### **7974. Disbursement Procedures**

(a) Funds shall be disbursed on the basis described in the standard agreement.

(b) For capital development grants, the Department may require the grantee have an escrow account, a construction fund control account, or a comparable type of account for acquisition, construction, conversion and rehabilitation activity, as applicable.

(c) The Department may rely on the grantee's certification that expenditures claimed in a request for disbursement are eligible and necessary, provided that the grantee also certifies that detailed supporting documentation verifying each expenditure is available and shall be retained by the grantee for five years after the termination of the standard agreement.

(d) Upon receipt and review of acceptable documentation the Department may provide an initial advance disbursement of up to fifty percent of the grant amount for operating expenditures. Advances are not permitted for capital development-type expenditures.

(e) As necessary, the Department shall establish minimum disbursement amounts or other related procedures necessary for the efficient administration of the program.

(1) If a grantee uses program funds for the costs of ineligible activities, the grantee shall be required to reimburse the funds to the EHAF and shall be prohibited from applying for subsequent allocations until fully repaid.

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.

Reference: Section 50802.5 and 50803, Health and Safety Code.

#### **7975. Monitoring Grant Activities and Closing-out Grants**

(a) Each DLB shall monitor the subsequent activities funded by grants from an allocation to the DLB's region.

(b) The Department shall monitor activities funded by grants selected and awarded by the Department pursuant to a Statewide NOFA or where the DLB's designation has been terminated and it has transferred its records to the Department per section 7953G) and may monitor grantees in DLB regions pursuant to the terms of the standard agreement.

(c) When a DLB is responsible for monitoring grant performance, the DLB may review and approve each request for disbursement from grant funds prior to submittal to the

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Department for review, approval, and payment.

(d) A DLB shall report immediately to the Department

(1) Any failure by a grantee to comply with the requirements of the program and/or the standard agreement; and

(2) Any need for the Department to halt the disbursement of grant funds or to halt activities funded by a grant.

(e) In order to close-out a grant the grantee shall:

(1) Provide a summary of the activities serving clients during the period of the grant, an estimate of the number of clients served with EHAP funds, and the corresponding expenditures for each approved eligible activity; and

(2) Demonstrate that all expenditures are supported by invoices and receipts.

(f) If a DLB supervises the close-out activities, the DLB shall provide a written certification that all grant-supported activities were conducted in compliance with program requirements.

(g) If it is determined that a grantee falsified any certification, application information, financial or contract reporting, the grantee shall be required to reimburse the full amount of the grant to the EHAF and shall be prohibited from any further participation in the EHAP .

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.  
Reference: Section 50802.5, Health and Safety Code.

**7976. Performance Evaluation of a Designated Local Board**

- (a) The Department shall evaluate the performance of each **DLB** on an annual basis.
- (b) This process shall involve an evaluation of the degree to which:
  - (1) Eligible recipients in the region participate in the development of the LESS:
  - (2) The performance of the DLB conforms to the procedures and requirements of the LESS and the requirements of this subchapter;
  - (3) The DLB achieves the goals and objectives established in the LESS, as measured by the eligible applications received and selected within the region;
  - (4) The participation of the DLB resulted in the increased efficient and effective

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use of program funds allocated to the region; and

- (5) Program grant activities within the region are monitored and, consequently, the degree to which grant activities conform to program requirements. .

Authority: Sections 50402, 50801.5, and 50806.5, Health and Safety Code.  
Reference: Sections 50801.5 and 50802.5, Health and Safety Code.

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